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NOT TO BE PUBLISHED IN OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE, Plaintiff and Respondent, v. PAUL ANTHONY WILLIAMS, Defendant and Appellant.	A132155 (San Francisco City & County Super. Ct. No. 211946 (MCN 2447316))

Appellant Paul Anthony Williams was convicted by jury of assault with force likely to cause great bodily injury (Pen. Code, former § 245, subd. (a)(1), as amended by Stats. 2004, ch. 494, § 1, p. 4040)[1] and battery with serious bodily injury (§ 243, subd. (d)). The trial court found that Williams had suffered a serious prior felony conviction, for first degree residential burglary (§§ 459, 667, subd. (a)(1)), which also qualified as a "strike" within the meaning of sections 667, subdivisions (d) and (e), and 1170.12, subdivisions (b) and (c). Williams was sentenced to a total term of 16 years in state prison. On appeal, Williams argues: (1) admission of evidence of third party efforts to suppress evidence violated his constitutional rights to due process; (2) the trial court abused its discretion by denying his motion to strike his prior conviction; and (3) the trial court improperly imposed a court security fee of $80, pursuant to section 1465.8. We modify the judgment to reduce the total security fee to $60, but otherwise affirm.

[1] Unless otherwise noted, all further statutory references are to the Penal Code.

I. BACKGROUND

On March 26, 2010, Williams was charged, by information, with assault with force likely to cause great bodily injury (former § 245, subd. (a)(1), as amended by Stats. 2004, ch. 494, § 1, p. 4040; count one) and battery with serious bodily injury (§ 243, subd. (d); count two). The information also alleged that Williams was subject to enhancements because he personally inflicted great bodily injury upon the victim (former § 12022.7, subd. (a), as amended by Stats. 2002, ch. 126, § 6, p. 696), and because Williams had previously been convicted of a serious felony (first degree residential burglary), within the meaning of sections 667, subdivision (a)(1), which was also a "strike" under sections 667, subdivisions (d) and (e), and 1170.12, subdivisions (b) and (c).

Prosecution Case

Sherry Sanders grew up in the West Point/Middle Point neighborhood in San Francisco. Sanders was 22 years old at the time of trial, and while she no longer lived in the neighborhood, she returned regularly to visit her mother, sister, and brother, who still lived there. Williams also grew up in the same neighborhood and Sanders had known him since she was about 15 years old. Sanders knew several members of Williams's family, including his aunt, Mavis Williams, and his uncle, Richard Parker.

In the early evening of November 6, 2009, Sanders was sitting in a car with her brother and his friend, listening to music and drinking rum mixed with juice. During the 30 minutes she was in the car, she consumed about a cup of the mixture. Approximately half an hour later, Sanders left the car to walk to the home of her friend, Sabrina Boyd. She was not feeling the effects of the alcohol. Along the way she paused near a basketball court to speak with two young men from the neighborhood, "Kango" and "Boogie." Williams walked by, and he and Sanders exchanged words. At some point, Williams called Sanders a "manly bitch." Sanders said "your momma" and called Williams a "snitch." Williams punched Sanders on the left side of her face, knocking her to the ground. He then proceeded to kick her, repeatedly, in the face and head. Sanders

watched Williams walk to a white minivan, enter on the passenger side, and then leave. Williams's girlfriend was in the driver's seat.

Sanders called her brother and 911 on a cell phone. Sanders told the 911 dispatcher that Williams had attacked her. Sanders's brother came to pick her up and put her in his car. Sanders also told her brother that Williams had attacked her. At some point, Sanders "blanked out."

At 6:57 p.m., police officer Steve Hildebrand was dispatched to the scene. Upon his arrival, Boyd told Hildebrand that Sanders had been hit, and she identified "Paul Anthony" as being responsible.[2] Hildebrand observed that Sanders was unable to speak with him because she was going in and out of consciousness. There was a crowd at the scene, but no one other than Boyd would speak with Hildebrand.

Sanders woke up in an ambulance, which took her to St. Luke's Hospital. She was transferred a few hours later to the University of California at San Francisco (UCSF). Sanders spoke with Hildebrand while she was at UCSF. She identified Williams, from a photo lineup, as her attacker. Sanders's jaw and left ring finger were fractured. A metal plate was placed in her jaw. Sanders continues to suffer from aching in her jaw, "terrible headaches," and frequent forgetfulness.

Although Sanders and her brother used to see Williams in the neighborhood regularly, after Sanders was attacked they did not see Williams. Williams was arrested, on December 1, 2009, in Solano County. Not long after the incident, Sanders was approached by Williams's uncle, Parker. Parker told Sanders he was telling people to urge her to drop the charges.[3] This made Sanders feel she was doing something "bad."

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[2] The jury was instructed: "[T]his information given to the officer is not for the truth. It is only to go to his state of mind. He received some information, and as a result he did something. It is only for that limited purpose. It is not for the truth that [Williams] did anything."

[3] At the time of the testimony, the jury was instructed: "[Y]ou are not to treat [this evidence] as though [Williams] had anything to do with this alleged conduct with [Sanders]—that he instigated it, promoted it, encouraged it or anything. You are not to consider that [Williams] was involved. [¶] This evidence that is being presented goes to

On March 15, 2010, Sanders testified at Williams's preliminary hearing. On May 20, 2010, Sanders was approached by Dominick Parella, a man she knew from the neighborhood. Parella told her: "Don't go down there to testify again." She felt threatened by his statement and did not want to go back to court.[4]

Defense Case

Williams denied hitting Sanders. Williams testified that, at about 7:00 p.m. on November 6, 2009, he arrived in West Point/Middle Point with his girlfriend, Shyed Ashford, to pick up his son and dog from his aunt's home. He lived in Vallejo at the time. He stayed at his aunt's house for about 10 minutes. As he left, he saw Kendrick Moore on the basketball court. Williams stopped to talk with Moore, Keith Jones, and "Boogie" for about five minutes. Four or five other guys were around.

Williams saw Sanders talking to some guy he did not know.[5] Sanders began yelling. Williams heard a "boom" sound. He turned and saw Sanders on the ground. Although he did not see Sanders get hit, Williams saw someone slap her cell phone out of her hand. Sanders immediately got up with no visible injuries and started asking people if she could use their phone. Williams saw Sanders walk away between some buildings, continuing to yell as she walked. Williams sat in the car for about five minutes, deciding

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. . . your assessment of [Sanders's] credibility and what weight you choose to give this information. [¶] But I want to stress, *you cannot use this evidence . . . as evidence of* [*Williams's*] *guilt in this case.*" (Italics added.)

[4] The jury was instructed: "[T]his evidence will be allowed for a limited purpose, and the purpose is only to assess [Sanders's] credibility. [¶] Because, remember, I told you anytime somebody takes the stand, their credibility is always at issue. . . . This evidence, however, is not presented that [Williams], if there is—if you do believe this incident did occur, that [Williams] was, in fact, involved in this alleged claim of threats of retaliation by [Parella] to [Sanders]. [¶] This evidence can only be used for a very limited purpose to assess [Sanders's] credibility. *This is not evidence and cannot be used as evidence of* [*Williams's*] *guilt.*" (Italics added.)

[5] On cross-examination, Williams testified that the person with whom Sanders was speaking was Antoine, also known as "Twannie," and he was not from West Point/Middle Point.

where to go for dinner, and then left. Williams testified that he continued to visit the neighborhood approximately twice a week.

Williams also testified that, in about March or April 2009, he had a "one night stand" with Sanders. After that night, Sanders called Williams names.[6] Williams said he had not spoken with his uncle since he had been in jail. He denied knowing Parella, but admitted on cross-examination that he had heard of "Nick Bean" and would probably recognize him if he saw him.[7] Williams also denied having asked anyone to dissuade Sanders from testifying or that recorded jail telephone calls played for the jury, in which he was discussing his case with people other than Parella and Parker, were attempts to do so.

Moore, who is a friend of Williams, testified that, on the night of November 6, 2009, he was playing basketball by himself on the West Point/Middle Point court. He noticed Sanders arguing with some "light-skinned dude" he did not know. Williams walked by, accompanied by his girlfriend, son, and dog, during the middle of the argument. The argument ended when Sanders hit the ground. Moore did not see who hit Sanders, but he did not see Williams at the time.

Jones testified that, on the evening of November 6, 2009, he heard Sanders arguing with someone. He heard an "ooh" sound, turned around, and saw Sanders on the ground. At some point he had seen Williams with his son, his girlfriend, and his dog. When Jones turned around to see what happened, Williams was leaving with his son to get something to eat. Williams was not in the group of people Jones saw around Sanders. After the incident, Sanders appeared to be upset, but not injured. Jones let her use his cell phone. He had not talked to Sanders that day until after the incident.

Williams's aunt, Mavis Williams, confirmed that Williams had stopped by, on the evening of November 6, 2009, to pick up his dog and his son. She did not see the

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[6] Sanders denied Williams's version of events. Williams's girl friend, Kayla Tyler, testified that she saw Sanders leaving Williams's house.

[7] Parella was also known as "Nick Bean."

altercation and did not know who attacked Sanders. But, she testified that Sanders would get drunk on weekends and had a "real ugly mouth when she is drunk . . . ." Boyd was called as a defense witness and testified that she was drinking alcohol with Sanders for about two and a half hours on the evening of the incident. Boyd said that Sanders drank somewhere between a half-pint and a pint of rum that evening.

Verdict and Sentence

On June 28, 2010, the jury convicted Williams on both counts and found "true" the great bodily injury allegation. After Williams waived his right to a jury trial on the prior conviction, the trial court found the prior conviction allegations to be true.

The trial court denied Williams's motion to strike his prior conviction, made pursuant to *People v. Superior Court* (*Romero*) (1996) 13 Cal.4th 497. Williams was sentenced to state prison for a total term of 16 years—the upper term of four years on count one (doubled to eight years pursuant to §§ 667, subds. (d) & (e), 1170.12, subds. (b) & (c)), plus three years for infliction of great bodily injury, and five years on the section 667, subdivision (a)(1) enhancement. The trial court stayed the sentence on count two and its enhancements, pursuant to section 654. Among other fines and fees, the court imposed a court security fee of $40 per count, pursuant to section 1465.8, subdivision (a)(1).

On June 6, 2011, we granted Williams's application to file a late notice of appeal.

II. DISCUSSION

On appeal, Williams argues: (1) his constitutional rights to due process were violated by the admission of evidence of third party efforts to suppress evidence; (2) the trial court abused its discretion when it denied his *Romero* motion; and (3) the trial court improperly imposed a court security fee of $80, pursuant to section 1465.8. We will modify the judgment to reduce the total security fee to $60, but we otherwise affirm.

A. *Evidence of Third Party Attempts to Suppress Evidence*

As noted above, evidence was presented at trial, over Williams's objection pursuant to Evidence Code section 352, regarding attempts by Parella and Parker to

intimidate Sanders.[8] On appeal, Williams concedes that, "under California law, evidence of threats, even where the threats do not emanate from the defendant, is admissible under Evidence Code section 780,[9] to assist in the assessment of the witness's credibility. (*People v. Mendoza* (2011) 52 Cal.4th 1056, 1084–1086 [(*Mendoza*)].)" He also concedes that the jury was properly instructed that the remarks by Parella and Parker were to be used for the limited purpose of assessing Sanders's credibility. Nonetheless, Williams challenges admission of this evidence, contending that Sanders's testimony regarding the threats denied him his federal constitutional right to a fair trial. We assume that Williams's Evidence Code section 352 objection preserved his right to raise this argument on appeal. Nonetheless, it fails on the merits.

Our Supreme Court has recently explained: "[We] have held that evidence of a third party's attempt to intimidate a witness is inadmissible against a defendant unless there is reason to believe the defendant was involved in the intimidation. (E.g., *People v. Williams* (1997) 16 Cal.4th 153, 200–201; *People v. Hannon* (1977) 19 Cal.3d 588, 599.) But we were responding to the use of the evidence to show the defendant's consciousness

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[8] Evidence Code section 352 provides: "The court in its discretion may exclude evidence if its probative value is substantially outweighed by the probability that its admission will (a) necessitate undue consumption of time or (b) create substantial danger of undue prejudice, of confusing the issues, or of misleading the jury."

[9] Evidence Code section 780 provides: "Except as otherwise provided by statute, the court or jury may consider in determining the credibility of a witness any matter that has any tendency in reason to prove or disprove the truthfulness of his testimony at the hearing, including but not limited to any of the following: [¶] (a) His demeanor while testifying and the manner in which he testifies. [¶] (b) The character of his testimony. [¶] (c) The extent of his capacity to perceive, to recollect, or to communicate any matter about which he testifies. [¶] (d) The extent of his opportunity to perceive any matter about which he testifies. [¶] (e) His character for honesty or veracity or their opposites. [¶] (f) The existence or nonexistence of a bias, interest, or other motive. [¶] (g) A statement previously made by him that is consistent with his testimony at the hearing. [¶] (h) A statement made by him that is inconsistent with any part of his testimony at the hearing. [¶] (i) The existence or nonexistence of any fact testified to by him. [¶] (j) *His attitude toward the action in which he testifies or toward the giving of testimony*. [¶] (k) His admission of untruthfulness." (Italics added.)

of guilt; we were not concerned with whether it was relevant to some other issue, such as the witness's credibility. (*Hannon*, at p. 599; *People v. Weiss* (1958) 50 Cal.2d 535, 554.) Evidence is relevant if it has any tendency in reason to prove or disprove any disputed fact or consequence, including evidence relevant to the credibility of a witness. [Citations.] Thus, ' "[e]vidence that a witness is afraid to testify or fears retaliation for testifying is relevant to the credibility of that witness and is therefore admissible. [Citations.] An explanation of the basis for the witness's fear is likewise relevant to her credibility and is well within the discretion of the trial court. [Citations.]" ' [Citation.]" (*People v. Abel* (2012) 53 Cal.4th 891, 924–925, parallel citations omitted.)

In arguing that his due process rights were violated, Williams relies on *Dudley v. Duckworth* (7th Cir. 1988) 854 F.2d 967 (*Dudley*). In *Dudley*, a divided court held testimony from a prosecution witness regarding anonymous phone calls that caused him fear for his safety, admitted without limitation, amounted to a violation of the defendant's right to a fair trial. (*Id.* at pp. 971–972.) The *Dudley* majority observed that, although the prosecutor claimed the testimony was offered to explain the witness's " 'extreme nervousness,' " it was difficult to detect any nervousness from the record. (*Id.* at pp. 970–971.) Thus, there was a "strong possibility that the prosecutor intended to get the threat testimony before the jury under a pretext." (*Id.* at p. 971.)

Dudley is distinguishable because the jury, in that case, was not admonished to consider the threat evidence only with respect to the witness's credibility. Furthermore, in this case, the record does not suggest admission of the threat evidence was pretextual. Sanders clearly testified that she was afraid to come to court. Our Supreme Court has previously distinguished *Dudley* on these grounds. (*People v. Williams, supra,* 16 Cal.4th at p. 212.) In any event, we are not bound by decisions of the lower federal courts, even on questions of federal law. (See *People v. Crittenden* (1994) 9 Cal.4th 83, 120, fn. 3.) However, we are bound to follow decisions of the California Supreme Court. (*Auto Equity Sales, Inc. v. Superior Court* (1962) 57 Cal.2d 450, 455.)

In *Mendoza, supra,* 52 Cal.4th 1056, our Supreme Court rejected the argument urged by Williams—that admission of third party threats undermined the integrity of the

defendant's trial and violated his state and federal constitutional rights to a fair trial, confrontation of witnesses, due process, and effective assistance of counsel. (*Id.* at p. 1084; accord, *People v. Sapp* (2003) 31 Cal.4th 240, 281.) The *Mendoza* court, after reviewing the text of Evidence Code section 780 and the leading California authorities, stated: "These authorities make clear that a trial court has discretion, within the limits of Evidence Code section 352, to permit the prosecution to introduce evidence supporting a witness's credibility on direct examination, particularly when the prosecution reasonably anticipates a defense attack on the credibility of that witness. That is what happened here. Flores was the prosecution's key witness, and the credibility of her testimony was essential to establish defendant's guilt of the charged crimes and the truth of the special circumstance allegations. As the People point out, the defense signaled a strategy of challenging Flores's credibility as early as the preliminary hearing, when it questioned Flores regarding her gang affiliations, her drug and alcohol use, her sex life and her jealousy toward defendant's relationship with Valore, and her fights with defendant." (*Mendoza*, at p. 1085.) The court concluded that Mendoza had forfeited his constitutional arguments, by failing to raise them before the trial court. Nonetheless, the court went on to conclude that the arguments had no merit, stating: "As discussed above, the evidence of third party threats and the witnesses' fear was relevant on the issue of witness credibility. The questioning and closing argument concerning such evidence was brief and noninflammatory, and limiting instructions were given as requested." (*Id.* at p. 1088.)

Here, as in *Mendoza*, *supra*, 52 Cal.4th at pages 1085–1086, 1088, the evidence's probative value was not substantially outweighed by its potential for unfair prejudice. Sanders's credibility was critical. The defense aimed to paint Sanders as biased by her alleged sexual involvement with Williams and to further discredit her by offering evidence of her use of alcohol. The trial court instructed the jury on several occasions that evidence of witness intimidation was admissible only for purposes of evaluating the witness's state of mind and not as evidence of Williams's guilt. We presume that the jury followed the court's instructions and cannot presume that they speculated regarding

consciousness of guilt. (*People v. Anderson* (2007) 152 Cal.App.4th 919, 951 [jurors presumed to follow jury instructions].) Accordingly, we conclude that the admission of the threats evidence did not deny Williams a fair trial.

B. *Romero Motion*

Next, Williams argues that the trial court abused its discretion when it refused to strike his prior conviction for residential burglary. We disagree.

In *Romero, supra*, 13 Cal.4th 497, our Supreme Court held that a court may, on its own motion, strike prior felony conviction allegations, pursuant to section 1385, in cases arising under the three strikes law.[10] In determining whether to do so, the trial court must consider both the defendant's constitutional rights and the interests of society. (*Id.* at p. 530.) "[I]n ruling whether to strike or vacate a prior serious and/or violent felony conviction allegation or finding under the Three Strikes law, on its own motion, 'in furtherance of justice' pursuant to . . . section 1385[, subdivision] (a), or in reviewing such a ruling, the court in question must consider whether, *in light of the nature and circumstances of his present felonies and prior serious and/or violent felony convictions, and the particulars of his background, character, and prospects*, the defendant may be deemed outside the scheme's spirit, in whole or in part, and hence should be treated as though he had not previously been convicted of one or more serious and/or violent felonies." (*People v. Williams* (1998) 17 Cal.4th 148, 161, italics added.)

"The Supreme Court has thus made clear that a decision to strike a prior is to be an individualized one based on the particular aspects of the current offenses for which the defendant has been convicted and on the defendant's own history and personal circumstances. This approach allows the court to perform its obligation to tailor a given sentence to suit the individual defendant. But the court must also be mindful of the sentencing scheme within which it exercises its authority. In deciding to strike a prior, a

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[10] Section 1385, subdivision (a), provides, in relevant part: "The judge or magistrate may, either of his or her own motion or upon the application of the prosecuting attorney, and in furtherance of justice, order an action to be dismissed."

sentencing court is concluding that an exception to the scheme should be made because, for articulable reasons which can withstand scrutiny for abuse, this defendant should be treated as though he actually fell outside the Three Strikes scheme." (*People v. McGlothin* (1998) 67 Cal.App.4th 468, 474.)

Rulings on motions to strike prior convictions are reviewed under the deferential abuse of discretion standard. (*People v. Carmony* (2004) 33 Cal.4th 367, 371, 374; *People v. Myers* (1999) 69 Cal.App.4th 305, 309.) "In reviewing for abuse of discretion, we are guided by two fundamental precepts. First, ' "[t]he burden is on the party attacking the sentence to clearly show that the sentencing decision was irrational or arbitrary. [Citation.] In the absence of such a showing, the trial court is presumed to have acted to achieve legitimate sentencing objectives, and its discretionary determination to impose a particular sentence will not be set aside on review." ' [Citations.] Second, a ' "decision will not be reversed merely because reasonable people might disagree. 'An appellate tribunal is neither authorized nor warranted in substituting its judgment for the judgment of the trial judge.' " ' [Citation.] Taken together, these precepts establish that a trial court does not abuse its discretion unless its decision is so irrational or arbitrary that no reasonable person could agree with it." (*People v. Carmony*, *supra*, 33 Cal.4th at pp. 376–377.)

"[T]he three strikes law not only establishes a sentencing norm, it carefully circumscribes the trial court's power to depart from this norm and requires the court to explicitly justify its decision to do so. In doing so, the law creates a strong presumption that any sentence that conforms to these sentencing norms is both rational and proper." (*People v. Carmony*, *supra*, 33 Cal.4th at p. 378.) "Because the circumstances must be 'extraordinary . . . by which a career criminal can be deemed to fall outside the spirit of the very scheme within which he squarely falls once he commits a strike as part of a long and continuous criminal record, the continuation of which the law was meant to attack' [citation], the circumstances where no reasonable people could disagree that the criminal falls outside the spirit of the three strikes scheme must be even more extraordinary. Of course, in such an extraordinary case—where the relevant factors described in [*People v.*]

Williams, supra, 17 Cal.4th 148, manifestly support the striking of a prior conviction and no reasonable minds could differ—the failure to strike would constitute an abuse of discretion." (*People v. Carmony, supra,* 33 Cal.4th at p. 378.)

Williams points out that both of his parents were addicted to drugs. His father spent Williams's entire childhood in prison. Then, as an adult, Williams lost three of his brothers in tragic circumstances. Williams argues that the court gave insufficient consideration to this personal background and the fact that the prior conviction was committed 17 years ago, when Williams was only 20 years old.[11] In denying the *Romero* motion, the trial court explained: "I do understand [Williams's] life, and it's an unfortunate life, dealing with his parents. He has children. But there is violence here. There was violence in 1992 and there is ultimate violence here when someone not only had a broken jaw but [there] was great bodily injury. And, as the defense pointed out, words were exchanged. The words exchanged do not warrant a broken jaw and a beating. [¶] . . . [¶] But [Williams] meets the . . . legislative intent [of the three strikes law]. I do not have the record . . . , such as the one in [*In re Saldana* (1997) 57 Cal.App.4th 620], that would indicate an extraordinary circumstance to strike this under *Romero*."

The trial court clearly considered all the factors and concluded that the circumstances did not place Williams outside of the spirit of the three strikes law. We cannot and do not second guess the trial court's concern with the violence involved in Williams's prior conviction—specifically, the use of a firearm. In the intervening 17 years, Williams has not turned away from violence. Rather, he has again been convicted of a violent crime. This is not an "extraordinary case," where the relevant factors "manifestly support the striking of a prior conviction and no reasonable minds could differ . . . ." (*People v. Carmony, supra,* 33 Cal.4th at p. 378.)

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[11] Williams's appellate counsel also incorrectly asserts that Williams served his prior term at the California Youth Authority. The record does not support this assertion.

None of the cases on which Williams relies are on-point. (*People v. Cluff* (2001) 87 Cal.App.4th 991, 1004 [trial court abused its discretion because the "evidence in the record does not support the inference of obfuscation that was central to the trial court's ruling"]; *In re Saldana, supra,* 57 Cal.App.4th 620 [affirming dismissal of prior conviction when current offense was minor and prior conviction was 16 years old]; *People v. Bishop* (1997) 56 Cal.App.4th 1245 [affirming dismissal of two prior convictions when current offense was minor and prior convictions were more than 17 years old].) The trial court did not abuse its discretion.

C. *Security Fee*

Finally, Williams argues, and the People concede, that the trial court improperly imposed a total security fee of $80, pursuant to section 1465.8, subdivision (a)(1). At the time of Williams's conviction, on June 28, 2010, former section 1465.8, subdivision (a)(1) (as amended by Stats. 2009, ch. 342, § 5), provided: "To ensure and maintain adequate funding for court security, a fee of thirty dollars ($30) shall be imposed on every conviction for a criminal offense . . . ." As of October 19, 2010, the security fee was increased to $40. (§ 1465.8, subd. (a)(1), as amended by Stats. 2010, ch. 720, § 33.) Because the $40 security fee was unauthorized at the time Williams was convicted, we will correct the judgment. (See *People v. Davis* (2010) 185 Cal.App.4th 998, 1000 [new court facilities fee imposed by Gov. Code, § 70373 does not apply to cases in which the defendant's conviction was rendered before effective date]; *People v. Alford* (2007) 42 Cal.4th 749, 754 [§ 1465.8's "legislative history supports the conclusion the Legislature intended to impose the court security fee to all convictions after its operative date"]; *People v. Pacheco* (2010) 187 Cal.App.4th 1392, 1402 [objection to imposition of § 1465.8 security fee is not forfeited by failure to object before trial court].)

III. DISPOSITION

The judgment is modified to reduce the section 1465.8 court security fee from $40 to $30, for each count. The trial court is directed to send a corrected abstract of judgment to the Department of Corrections and Rehabilitation reflecting the modification in the amount of the court security fee. In all other respects, the judgment is affirmed.

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Bruiniers, J.

We concur:

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Jones, P. J.

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Simons, J.